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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,839	03/09/2004	David Plummer	A202 1272	2459

26158 7590 08/10/2004

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EXAMINER
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VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 08/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/796,839	PLUMMER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steve M Vamer	3635	NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-1-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

Claims 1-21 are cancelled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 33, 34, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are two claims each of 33, 34. Both claims 33 and claims 34 have been examined.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 22, 24-29, 31-35, 37, 38, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5, 6, 11,

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19, of U.S. Patent No. 6718704. Although the conflicting claims are not identical, they are not patentably distinct from each other because.

Regarding claim 22, Plummer et al. '704 claim 1 claims a glass unit; an attachment member secured to the glass unit; a grille installed adjacent said glass unit, said grille comprising an installation end; and, a grille clip pivotally connected to said installation end and engaged with said attachment member.

Regarding claim 24, Plummer et al. '704 claim 5 claims wherein said grille clip is mounted within a recess formed in said installation end of said grille.

Regarding claim 25, Plummer et al. '704 claim 6 claims wherein said grille clip comprises a spring member.

Regarding claim 26, Plummer et al. '704 claim 1 claims wherein said attachment member comprises a receptacle in which a portion of said grille clip is disposed.

Regarding claim 27, Plummer et al. '704 claim 19 claims wherein said grille clip comprises a pair of pivot projections, which form an axis about which said grille clip pivots.

Regarding claim 28, Plummer et al. '704 claim 1 claims wherein said grille clip comprises an engagement tab that engages said attachment member.

Regarding claim 29, Plummer et al. '704 claim 19 claims wherein said grille clip comprises a camming surface.

Regarding claim 31, Plummer et al. '704 claim 1 claims a grille body having an installation end; and a grille clip pivotally attached to said installation end.

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Regarding claim 32, Plummer et al. '704 claim 5 claims wherein said installation end comprises a recess in which said grille clip is disposed.

Regarding second claim 33, Plummer et al. '704 claims 11, 19, claim said grille clip comprises a pair of pivot projections that engage said installation end.

Regarding second claim 34, Plummer et al. '704 claim 1 claims wherein said grille clip comprises an engagement tab.

Regarding claim 35, Plummer et al. '704 claim 19 claims wherein said grille clip comprises a camming surface.

Regarding claim 37, Plummer et al. '704 claim 9 claims wherein said grille body is formed of wood.

Regarding claim 38, Plummer et al. '704 claim 10 wherein said grille body is formed of a thermoplastic material.

Claims 23, 30, first claim 33, first claim 34, 36, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6718704 in view of Becken et al.

Regarding claims 23, 30, first claim 33, 36; Plummer et al. '704 claim 1 claims the basic claimed structure. Plummer et al. '704 claim 1 does not claim frictional engagement between the grille clip and the installation end and a pair of opposed tabs that engage the installation end. Becken et al. shows frictional engagement and opposed tabs (14) (Fig. 4, 6). It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use opposed tabs and frictional

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engagement as in Becken et al. in the structure of Plummer et al. to connect the clip to the installation end.

Regarding first claim 34, Plummer et al. claim 3 claims the grille clip comprises plurality of installation ends.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Webb shows a window assembly and grille retaining strip hardware therefor. Ouellette et al. shows a window assembly and grille.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to be a stylized 'R' or 'B' with a long horizontal stroke extending to the right.A handwritten signature in black ink, appearing to be 'C. Friedman' with a long horizontal stroke extending to the right.

Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600